

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT NICKLAY,

Plaintiff,

Case No. 1:08-cv-331

v

HON. JANET T. NEFF

56-A DISTRICT COURT, et al.,

Defendants.

JUDGMENT

On April 8, 2008, Plaintiff filed a “Complaint for Violation of Constitutional Rights.” On April 15, 2008, the Magistrate Judge filed a Report and Recommendation, recommending that the action be dismissed upon initial screening pursuant to 28 U.S.C. § 1915A(b) on grounds that the Defendants are immune from suit. Plaintiff has also since filed Motions for Immediate Consideration, a Motion to Allow Un-notarized Documents, and a Motion to Correct a Clerical Error.

The matter is presently before the Court on Plaintiff’s objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Judgment. See FED. R. CIV. P. 58.

Plaintiff’s objections do not address the Magistrate Judge’s conclusion that Defendants are immune under the Eleventh Amendment. Plaintiff argues that he was denied due process because

his 2007 civil action to collect a security deposit was dismissed when he did not appear in court due to his incarceration. Because Plaintiff filed a lawsuit against both judges of the 56-A District Court in 2008, he expresses disagreement with the Magistrate Judge that his claim could have been appealed and reviewed by the district judge de novo. Plaintiff also questions the statutory limitation on his claim for damages.

Because Plaintiff's objections are irrelevant to the Magistrate Judge's decision that Defendants are immune from suit, the Court denies the objections.

For these reasons and because Plaintiff is proceeding *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Judgment would not be taken in good faith. See *McGore v. Wigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

THEREFORE, IT IS ORDERED that the objections (Dkt 14) are DENIED and the Report and Recommendation (Dkt 8) is APPROVED and ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED that the Complaint (Dkt 1) is DISMISSED pursuant to 28 U.S.C. § 1915A(b) for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that Plaintiff's Motion to Allow Un-notarized Documents (Dkt 4), Motion to Correct a Clerical Error (Dkt 9) and Motions for Immediate Consideration (Dkts 10, 11, & 12) are DENIED as moot.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of the Judgment would not be taken in good faith.

Date: September 22, 2008

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge